

PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:30 p.m. on Monday, October 21, 2013 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons, Jason Anderson, Mike Bachand, Branden Bestgen, David Hersrud, Marcia Johnston, Tim Potts, and Ronald Waterland. Also present City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: Kelly Vasknetz.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Motion by Johnston, second by Waterland and carried with all members present voting yes to approve the agenda with amendment of adding 13 (a) – Approval of Water Capital Improvement payments; 13 (b) – Approval of purchase of a bucket truck from Black Hills Power; 13 (c) – approval of supplemental compensation for salaried personnel after a declared disaster; 14 – Adjourn.

Announcements:

- Mayor Carstensen proclaimed November 1, 2013 as Extra Mile Day.
- City Manager Ainslie had received several phone calls from Ranchers thanking the Business Community and Citizens of Sturgis for the Fellowship supper that was held on October 17th.
- Anna Street tree drop will be closed.
- BHP Efficiency Day has been canceled.
- The Senior Citizens thanked Gene Stock for his help for the trees that were down on 2nd Street.
- Thanks go out to the National Guard for their help on cleaning the Parks and Recreational Trails in town.

City Manager Ainslie reported:

- The 2013 budget is at 73% of the calendar year with General Fund at 69.5%, Special Sales Tax at 80%, Capital Improvements at 97%, Liquor at 70.5%, Water at 163%, Wastewater at 58%, Sanitation at 62% and Ambulance at 128%.
- Cleanup from the snowstorm has exceeded \$200,000.
- If you need help with your tree branches, you can dial 211 and they can assist you.
- Exit 32 has had the trees burned once and continues to have trees hauled in. As of Sunday, October 20th, there have been 944 truckloads of tree branches hauled from the Community Center and Anna Street to the rubble site.
- 2013 Rally expenses and revenues were reported with income for use in General Fund at \$547,076.96. This information will be on the City Website.
- Ainslie appointed Mike Bachand to the Meade County Rally Committee and Mayor Mark Carstensen to the SMRi Board.
- Discussion was held on what the procedure is for FEMA.

Motion by Johnston, second by Potts and carried with all members present voting yes to approve the following items on the consent calendar:

1. Consider approval of the minutes from the October 15, 2013 regular council meeting.

Motion by Johnston, second by Waterland and carried with all members present voting yes to approve the following claims with the exception of **General**- Johnston Hardware, \$202.06, repair; **Water**- Johnston Hardware, \$21.48, supp; **Ambulance**- Johnston Hardware, \$40.96, supp;

General – A&B Business, \$357.29, maint; American Center for Credit Education, \$1000.00, travel; AT&T Mobility, \$1758.16, util; Dusty Barker, \$30.00, other; Shawn Barrows, \$50.00, supp; BH Badlands & Lakes, \$2220.00, travel-rally; BH Harley Davidson, \$271.04, repair; BH Power, \$34,197.00, util; Rick Bush, \$55.80, travel; Campbell Supply, \$536.85, supp; Casper Radio Group, \$300.00, publ-rally; CBH Cooperative, \$14,594.70, supp; Central Service Center, \$128.49, repair; Coca Cola, \$500.45, merch for resale; Creative Product Sourcing, \$78.00, other; Dakota Backup, \$1035.36, prof fee; Dale's Tire, \$208.56, repair; Ecolab Pest, \$336.42, maint; Finance Office Petty Cash, \$155.60, other; First Interstate Bank, \$8467.02, supp; Foremost Promotions, \$74.00, supp; Freeman Electric, \$3452.95, util; FSH Communications, \$60.00, util; Glover Investments, \$600.00, rental-rally; Golden West Technologies, \$105.00, repair; Great Western Tire, \$175.89, supp; Hauff Mid-America Sports, \$31.90, supp; Haugo Broadcasting, \$500.00, publ-rally; Heiman Fire Equipment, \$408.00, supp; Lori Jeffery-Kirk, \$200.00, other; Jenner Equipment, \$3608.00, equip; KBHB, \$198.00, publ-rally; Kieffer Sanitation, \$1885.00, supp; Lynn's Dakotamart, \$135.92, supp; Marco, \$22.63, repair; MDU, \$4711.68, util; Ben Mumm, \$55.84, supp; Neve's Uniforms, \$498.18, supp; Owens Interstate, \$419.14, repair; Pete Pi Jr, \$30.00, other; Pitney Bowes, \$120.56, publ; Tina Porterfield, \$35.00, refund; Purchase Power, \$399.56, supp; Rapid City Journal, \$40.80, supp; Rasmussen Mechanical Services, \$234.50, repair; Richter's Tire, \$22.99, repair; Robert Sharp & Assoc, \$530.25, publ-rally; Rushmore Office, \$1006.79, supp; Safety Benefits, \$195.00, travel; SD Dept of Revenue, \$170.00, prof fee; SD Public Assurance Alliance, \$103.77, insur; Servall Towel, \$289.88, maint; Shopko, \$29.23, supp; Theodore Smith, \$30.00, other; Sturgis Napa, \$1124.83, repair; Tom's T's, \$110.00, equip; Town-N-Country Plumbing, \$26.51, repair; Twilight First Aid, \$247.20, supp; West Payment Center, \$121.18, prof fee; WOW! Business, \$306.73, util.

Capital Improvement – Bierschbach Equipment, \$918.00, cap imp.

Liquor – 5-Star Audio-Video System, \$3565.44, cap imp; Amcon Distributing, \$1928.47, cig for resale; Artic Glacier USA, \$248.25, merch for resale; AT&T Mobility, \$54.44, util; Cask & Cork, \$119.00, off sale liquor; Coca Cola, \$508.00, pop for resale; Eagle Sales, \$15,303.11, off sale beer; Ecolab Pest, \$98.03, maint; First Interstate Bank, \$65.04, other; Fisher Beverage, \$11,922.61, off sale beer; Golf Skor, \$395.00, other; Johnson Western Wholesale, \$29,553.11, off sale liquor; Lynn's Dakotamart, \$17.29, other; Mobile Mini, \$196.57, supp; MDU, \$29.97, util; Okoboji Wines, \$498.70, off sale liquor; Owens Interstate, \$46.41, repair; Prairie Berry, \$2942.00, off sale liquor; Republic Beverage, \$43,596.37, off sale liquor; Rushmore Office, \$89.99, supp; Servall Towel, \$152.40, supp; Shifters Café, \$32.65, malt bev refund; Sturgis Events, \$74.68, malt bev refund; The Homeslice Group, \$5212.00, publ; Tour Ice, \$32.80, merch for resale.

Water – A&B Business, \$291.21, supp; AT&T Mobility, \$221.31, util; BDR Investments, \$26.50, publ; BH Power, \$11,708.81, util; Campbell Supply, \$70.30, supp; CBH Cooperative, \$814.89, supp; Central Air Heating-Cooling, \$7787.77, repair; Credit Collection Bureau, \$74.00, prof fee; Dakota Backup, \$141.18, prof fee; Eagle Sales, \$23.00, other; First Interstate Bank, \$185.86, travel; Good Construction, \$29.03, publ; Gustafson Builders, \$57.42, publ; Hawkins, \$1861.63, supp; HD Supply Waterworks, \$959.39, supp; MDU, \$70.04, util; RCS Construction, \$42,967.83, cap imp; Rushmore Office, \$29.90, supp; Servall Towel, \$11.86, repair; Shopko, \$17.99, supp; Sturgis Napa, \$15.84, supp; Sturgis Water Dept Petty Cash, \$43.25, supp; TTG Enterprises, \$4920.07, cap imp; Weston Engineering, \$1867.54, supp; WOW! Business, \$34.88, util.

Wastewater – AT&T Mobility, \$-568.50, util; Campbell Supply, \$64.98, repair; Owens Interstate, \$51.07, repair; Rushmore Office, \$2.60, supp; Sturgis Napa, \$99.51, repair.

Sanitary Service – A&B Welding, \$97.29, repair; AT&T Mobility, \$77.39, util; BH Power, \$25.48, util; Campbell Supply, \$119.12, repair; CBH Cooperative, \$36.00, supp; City of Belle Fourche, \$17,367.36, other; Dale's Tire, \$2146.02, supp; First Interstate Bank, \$470.55, travel; Great Western Tire, \$386.98, supp; Johnston Hardware, \$20.98, supp; Owens Interstate, \$690.95, supp; Sturgis Napa, \$306.04, repair; SWANA, \$195.00, prof fee.

Ambulance – BH Power, \$716.33, util; CBH Cooperative, \$2700.03, supp; Coca Cola, \$44.95, supp; EMSAR, \$1168.26, supp; Finance Office Petty Cash, \$11.00, supp; First Interstate Bank, \$2975.40, travel; Lynn's Dakotamart, \$50.31, supp; MDU, \$71.38, util; Richter's Tire, \$62.99, repair; Rushmore Office, \$117.09, supp; Sturgis Napa, \$117.81, supp.

Motion by Hersrud, second by Potts and carried with Carstensen, Anderson, Bachand, Bestgen, Hersrud, Potts and Waterland voting yes, Johnston abstaining, to approve the following claims:

General- Johnston Hardware, \$202.06, repair; **Water**- Johnston Hardware, \$21.48, supp;

Ambulance- Johnston Hardware, \$40.96, supp:

Motion by Potts, second by Waterland and carried with all members present voting yes to approve the following payroll changes: Liquor Store – Sales Clerk - Tyson Donovan – ½ time status change - \$11.34. Liquor Sales Clerk Larry Pollard will be gone for a month and Chuck Colombe will take his place - \$8.00.

A discussion was held on a potential Community movie theater. There are four options that the Council could consider. 1. No City Involvement and wait for a private investor to build a theater. 2. Retrofit the Community Center to include a movie theater. 3. Build an outdoor theater at the 2nd Street Plaza. 4. Build an indoor two screen theater. Several citizens spoke against the Community Center being retrofitted for a movie theater. The Council talked about another option of retrofitting the Auditorium/Armory on Main Street to house a two screen theater and some other uses. The City would have to work with the School district and other sports groups, as the auditorium is being used for sports events. Councilor Johnston asked if another survey could be done of the entire area from a professional group. Ainslie said yes it could be done. There will be another public meeting scheduled to discuss this issue and staff will bring forth new ideas. A suggestion was made to form a committee.

Motion by Johnston, second by Anderson and carried with all members present voting yes to approve second reading of Ordinance 2013-16 – Title 11 – Sanitation.

ORDINANCE 2013-16

AN ORDINANCE AMENDING TITLE 11– HEALTH AND SANITATION

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 11– Chapter 11.03 – Rubble Site and Dumping, Section 11.03.07 –Rates for Use of Rubble Site; Section 11.03.09 - Disposal of Tires. Chapter 11.04- Collection and Disposal of Garbage and Rubbish - Section 11.04.11 – Temporary/Special Event Sanitation Fee; Section 11.04.13 – Appeal Process. Chapter 11.05 – Sewers – Section 11.05-31 – Sewer Use Charge is amended to read as follows:

11.03.07: RATES FOR USE OF RUBBLE SITE

Any City resident or water account holder who has paid all current rates for the hauling of rubbish from within the City as set forth in this Chapter, shall upon presentation of a copy of the utility bill and proof of identity, be entitled to access to the Rubble Site for the purpose of depositing rubbish originating from a residence or a commercial unit within the City, so long as the quantity of the rubbish being hauled to the Rubble Site is a pickup load or a smaller trailer containing no more than 5 yards.

The fees for dumping material at the Rubble Site shall be a base rate of \$6.00 per yard, and the rate for containers shall be as follows:

CATEGORIES FEE

1 YARD	\$6.00	20 YARDS	\$120.00
2 YARDS	\$12.00	25 YARDS	\$150.00
3 YARDS	\$18.00	30 YARDS	\$180.00
4 YARDS	\$24.00	40 YARDS	\$240.00
5 YARDS	\$30.00	50 YARDS	\$300.00
6 YARDS	\$36.00	60 YARDS	\$360.00
7 YARDS	\$42.00	70 YARDS	\$420.00
8 YARDS	\$48.00	80 YARDS	\$480.00
9 YARDS	\$54.00	90 YARDS	\$540.00
10 YARDS	\$60.00	100 YARDS	\$600.00

Starting January 1, 2014 the fee shall increase by 3% annually, unless by resolution following adoption of the Budget Ordinance the Council should adopt a different annual rate.

The fees set forth above are based on container size, not by the amount of rubbish in said container. If the size of the container is not listed above, the size of the container shall be rounded up to the larger size as determined by City Public Works staff and the appropriate fee shall be paid on that size.

Mobile Home disposal may be permitted subject to inspection and acceptance by Public Works Director or his designee. No Mobile Home or similar prefabricated unit will be accepted for disposal if it contains household goods, clothing, trash, garbage or other hazardous or toxic items. The rate for disposal shall be \$15.00 per linear foot, including hitch length, tires will be charged separately in accordance with Section 11.03.09.

For convenience, punch cards shall be sold by the City, which shall allow the owner thereof to dump in quantities equal to the value of the categories hereinbefore set forth at said Rubble Site.

For the purpose of this Section, rubble and waste material originates at the place where it first becomes rubble or waste material.

It shall be unlawful to dump any rubble or waste material at the Rubble Site without paying the required fee as set forth herein.

The Rubble Site may be unlocked on Sundays or holidays provided the person requesting this service in writing shall pay to the City a fee to reimburse the City for its costs, in an amount to be determined by the Public Works Director.

11.03.09: DISPOSAL OF TIRES

Tires accepted for the Restricted Use of Solid Waste Facility shall be handled as follows:

- Type 1. \$3.00 each – Bicycle tires.
- Type 2. \$5.00 each – Vehicle and motorcycle tires for rim size 17 inches or smaller.
- Type 3. \$10.00 each – Tires larger than 17 inches inside diameter and up to 20 inches inside diameter.

Type 4. \$20.00 each – Tires larger than 20 inches inside diameter and up to 22.5 inches inside diameter.

Type 5. \$40.00 each – Tires larger than 22.5 inches inside diameter and up to 24 inches inside diameter.

No tires larger than 24 inches inside diameter shall be accepted.

Starting January 1, 2014 the fee shall increase by 3% annually, unless by resolution following adoption of the Budget Ordinance the Council should adopt a different annual rate.

Tires must be sorted, paid for at the listed fee, and placed in the proper pile according to the City or its designee.

The City may no longer haul or accept tires in the refuse trucks. City sanitation dump trucks may pick up tires of Type 1, 2, and 3 within the City. Upon request by the resident, billing for said tire pick up shall be assessed on the resident's monthly sanitation utility bill sent by the Sturgis Water Department.

11.04.11: SPECIAL EVENT SANITATION FEE

A sanitation fee in the amount of Two Hundred Twenty-Five Dollars (\$225.00) shall be imposed and collected for additional garbage and public collection disposal and for the provision of the temporary sanitation services to all temporary vendors within the City during any special event of over four (4) days in duration, unless specifically exempted from payment under the language of the Temporary Vendor License requirements set out in Subsection 31.02.03.5 (D) and (E), Sturgis City Ordinances.

The fee of \$225.00 shall be imposed for access up to five (5) refuse "totes". An additional fee of \$425.00 shall be imposed for access to six (6) to ten (10) refuse totes; a fee of \$600.00 shall be imposed for access to eleven (11) to fifteen (15) refuse totes; a fee of \$750.00 shall be imposed for access to sixteen (16) to twenty (20) refuse totes, and a fee of \$900.00 shall be imposed for access to more than 20 refuse totes. Beginning January 1, 2013 the fees stated herein shall increase to \$235.00, \$435.00, \$610.00, \$760.00 and \$910.00 respectively. Beginning January 1, 2014 the fees stated herein shall increase to \$245.00, \$445.00, \$620.00, \$770.00 and \$920.00 respectively.

The number of additional refuse totes required for each property during a special event shall be determined by the Public Works Director or his/her designee. A property owner may dispute the determination and request a review of that determination by the Public Works Director within 72 hours of delivery of the additional totes to the property by providing a written objection and any supporting documentation to the City Finance Office. The City Manager will review the complaint and provide a written decision to the property owner within 5 days. If the property owner still disputes the fee for the additional refuse totes, the remedy for the property owner is to submit a formal appeal as provided for at Section 11.04.23 herein.

Material permitted to be disposed of in these totes does not include disposal of any tires, inner tubes or similar items. Vendors that have paid the Special Sanitation Fee set forth above can request disposal of used tires at the time the Vendor permit and Special Sanitation Fee is paid by paying for 1/2 of the total expected tire disposal cost, calculated at the following rate per tire:

Type 1 - \$4.00 each – Bicycle tires.

Type 2 - \$5.00 each – Vehicle and motorcycle tires for rim size 17 inches or smaller.

Type 3 - \$11.00 each – Tires larger than 17 inches inside diameter and up to 20 inches inside diameter.

Type 4 - \$22.00 each-- Tires larger than 20 inches inside diameter and up to 22.5 inches inside diameter.

Type 5 - \$42.00 each– Tires larger than 22.5 inches inside diameter and up to 24 inches inside diameter.

No tires larger than 24 inches inside diameter shall be accepted. Tires must be sorted, paid for at the listed fee, and placed in the proper pile according to the directions of the Public Works director or his designee.

Billing for said tire pick up shall be sent to both the Vendor and the property owner. Any tire disposal so arranged but not paid in full within 45 days after the end of the annual motorcycle rally shall be assessed to the property owner's monthly sanitation/utility bill sent by the Sturgis Water Department and subject to collection by the City of Sturgis by any means authorized by city Ordinance or state law.

Tires which are left on private property and not removed within 7 days of the end of the annual motorcycle rally, or for which full payment for removal as set forth above has not been received, shall be removed by City personnel and the following fees assessed to the property owner for such removal:

Type 1 - \$5.00 each – Bicycle tires.

Type 2 - \$7.00 each – Vehicle and motorcycle tires for rim size 17 inches or smaller.

Type 3 - \$12.00 each – Tires larger than 17 inches inside diameter and up to 20 inches inside diameter.

Type 4 - \$25.00 each-- Tires larger than 20 inches inside diameter and up to 22.5 inches inside diameter.

Type 5- \$45.00 each– Tires larger than 22.5 inches inside diameter and up to 24 inches inside diameter.

For any tire larger than 24" left on public or private property and picked up by public Works or other authorized City personnel to avoid the existence of a trash nuisance, the handling and disposal fee shall be \$150.00 or the actual disposal cost to the City, whichever is greater. Billing for all tires picked up by City employees shall be assessed at these rates on the property owner's monthly sanitation/utility bill sent by the Sturgis Water Department.

In addition to being required to pay the Special Sanitation Fee provided for herein, trash piled upon or next to a refuse tote may constitute a nuisance in violation of Title 12 of Sturgis ordinances, and the property owner may be subject to prosecution for any such violation under Ordinance Title 12, or under the Administrative Code Violation provisions of Ordinance Title 36.

The owner of each establishment set forth below shall pay the sanitation fee prescribed above for the sanitation provided by the City during any special event of over four (4) days duration. Said fee shall be added to the next utility billing following the special event as shown by the records of the Sturgis Water Department. The fee prescribed is for a maximum twelve (12) day period. Said fee shall be imposed and collected from the following establishments, unless specifically exempted from payment by the language of ordinance Title 31:

- A. Food service establishment licensed under the statutes and regulations of the South Dakota State Department of Health with a seating capacity of thirty (30) persons or less. (License Type 150)
- B. Food service establishment licensed under the statutes and regulations of the South Dakota State Department of Health with a seating capacity of thirty-one (31) persons or more. (License Type 150)
- C. Food service establishment which is not required to be licensed under the statutes and regulations of the South Dakota State Department of Health. (License Type 150)
- D. Establishments licensed pursuant to SDCL 35-4-2 (16) or SDCL 34-4-11, selling On-Sale Malt Beverages. (License Type 150)
- E. Establishments licensed pursuant to SDCL 35-4-2(17) selling Off-Sale or packaged Malt Beverages. (License Type 150)
- F. On-Sale Liquor establishment licensed pursuant to SDCL 35-4-2(4). (License Type 150)
- G. Off-Sale Liquor establishment licensed pursuant to SDCL 35-4-2(3). (License Type 150)
- H. Temporary campground licensed by the State of South Dakota. (License Type 150)
- I. Business establishment not required to purchase a transient merchant's license required under The Sturgis City Ordinances where property has been modified and goods or services are provided in addition to or different from what is normally sold from property (food service establishment will be regulated under Section 1, 2, and 3). Fee is for each separate sales or service activity. (License Type 150)
- J. Any non-profit organization which sells raffle tickets or lottery tickets except those non-profit organizations established for religious, charitable or benevolent purposes as set forth in Section 501 of the Internal Revenue Code. An exception shall only apply to those non-profit organizations that can prove qualifications under Section 501, compliance with the notice provisions of SDCL 22-25-25(6), and which are identified as exempt from this fee by the language of Title 31, Temporary Vendor License.

This Special Sanitation fee shall be imposed for any other activity including, but not limited to, musical shows, demonstrations, or productions with two or more showings or sessions held during any event of over four (4) days in duration and not provided for above.

The sanitation rates set forth above shall be imposed regardless of whether the business is operated on a "not for profit" basis or otherwise.

Starting January 1, 2015 the Special Event Sanitation fee shall increase by 3% annually, unless by resolution following adoption of the Budget Ordinance the Council should adopt a different annual rate.

11.04.12: BILLING AND FAILURE TO PAY

In the event the payment is not made within the time noted on the utility bill, any applicable penalties of this Chapter shall apply.

Notwithstanding any other collection provision provided for under this Chapter, the City shall have the power to collect the sanitation fee imposed herein through any other remedy available to it under the statutes of the state of South Dakota.

11.04.13: APPEAL PROCESS

Any person aggrieved by a decision of the Public Works Director made under this Chapter shall be entitled to have said decision reviewed by the Public Works Director. In the case of an appeal of the decision of the Public Works Director, the subsequent review shall be by the City Manager. If after that review the appeal is not resolved the person may appeal the decision to the City Council, following the procedure established in Title 36. The process shall begin as follows:

- A. An aggrieved person shall first file a written request for review with the City Manager setting forth the basis for which he or she believes the Public Works Director's decision to be in error. The writing shall also include the person's name and mailing address.
- B. Upon receipt of a written request for review, the City Manager shall review the challenged decision and mail a written response to the aggrieved person within twenty (20) days.
- C. If the aggrieved person is not satisfied with the decision of the Public Works Director following review, he or she may file a notice of appeal following the procedure established in Title 36.

11.05.31: SEWER USE CHARGES

The sewer charge for any one residential unit shall be a flat rate of Twenty-three Dollars and sixty-nine cents (\$23.69) per month effective January 1, 2013.

If water service to a property is shut off, the monthly availability fee will still be charged to that account. That monthly fee will be \$18.00. This fee shall not be charged to accounts that used solely for irrigation purposes. The Council may adjust the fee by resolution. The Commercial availability fee shall be determined based on the water line size that feeds the property. The fee shall be as follows:

¾ inch to 1 inch	\$ 18.00
1 ¼ inch	\$ 36.00
1 ½ inch	\$ 54.00
2 inch	\$ 72.00
3 inch	\$108.00
4 inch	\$148.19

The sewer charge for commercial and institutional units shall be billed to the owner or operator of the commercial or institutional property at the following rates, based upon the size of domestic water lines effective January 1, 2013.

¾ inch to 1 inch	\$ 27.81
1 ¼ inch	\$ 55.62
1 ½ inch	\$ 83.43
2 inch	\$111.24
3 inch	\$166.86
4 inch	\$228.96

In addition to the rate shown above, each commercial or institutional account shall be assessed a usage fee based upon water usage. The account shall not be charged for the first 9,000 gallons used each month. A charge of \$0.50 per 1,000 gallons in excess of 9,000 gallons shall be assessed.

In addition to the required tap fees described in Section 11.05 within this chapter, a supplemental development sewer tap fee shall be required for all accounts established within the following described areas located within Section 22:

The NW ¼ of the NW ¼ NE ¼ of the NW ¼,

And SW ¼ of the NW ¼ in Section 22, TWP, Range 5 North, Twp 5 East Black Hills Meridian, in Meade County.

The applicant for the building permit shall be responsible to pay an additional \$3,000 tap fee per sewer account. That Supplemental development sewer tap fee shall be paid to the City before the building permit may be issued by the Building Official.

Whenever the BOD concentration exceeds 200 mg/l or the suspended solids concentration exceeds 250 mg/l based on a twenty-four (24) hour sampling period, flow-proportioned composite sample the sewage use fee shall be increased. The incremental charge shall be calculated based on the incremental cost incurred by the City.

The institutional users shall include but are not limited to schools, City, County and State buildings. Sewage use charges shall be increased as set forth above, and consistent with EPA and DENR regulations.

Starting January 1, 2014, the fee shall increase by 3% annually, unless by resolution following adoption of the Budget Ordinance the Council should adopt a different annual rate.

Dated this 21st day of October, 2013.

First reading: 10-15-2013
 Second reading: 10-21-2013
 Adopted: 10-21-2013
 Published: 10-30-2013
 Effective: 11-20-2013

Motion by Hersrud, second by Bestgen and carried with all members present voting yes to approve second reading of Ordinance 2013-17 – Title 13 – Offenses & Regulations.

ORDINANCE 2013-17
AN ORDINANCE AMENDING TITLE 13– OFFENSES AND REGULATIONS

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 13– Chapter 13.02 – Offenses – Section 13.02. – Disorderly Assembly is amended to read as follows:

- 13.02.01: Disorderly Conduct**
- 13.02.02: Disorderly Assembly**
- 13.02.03: Causing or Engaging in Riot**
- 13.02.04: Resisting, Assisting to Resist, Escaping from or Assaulting an Officer**
- 13.02.05: Impersonating an Officer**
- 13.02.06: Lurking about Premises**
- 13.02.07: Hindering or Molesting Passerby**
- 13.02.08: Playing in Streets**
- 13.02.09: Trespass and Unauthorized Use of Property**
- 13.02.10: Open Containers**
- 13.02.11: Use of Mechanical and Electronic Sound Amplification Devices**
- 13.02.12: Motorcycle and Automobile Dynamometers**
- 13.02.13: Pedestrian Interference and Aggressive Solicitation**

13.02.02: DISORDERLY ASSEMBLY

No person may cause a risk to public safety, peace, health or welfare, or create a risk of significant public inconvenience, annoyance or alarm to any member of the public by joining, being a part of or remaining at a DISORDERLY ASSEMBLY. For purposes of this section of Title 13, ***DISORDERLY ASSEMBLY*** means an assembly of 3 or more persons, some or all of whom are engaged in conduct which threatens or creates a risk to the public peace, safety, health, welfare or convenience through:

- a) fighting, or
- b) by displaying violent or threatening behavior toward any person, or
- c) by loud or profane language, or
- d) by unreasonable noise, or
- e) by obstructing or interfering with usual vehicular or pedestrian traffic, or
- f) by littering or breakage of any item of private or public personal property.

A disorderly assembly of persons is prohibited and any law enforcement officer shall have the authority to disperse those persons assembled and to require them to leave or remove themselves from the place of assembly. Any person present at or participating in a disorderly assembly who fails or refuses to leave, vacate or disperse from the place after having been commanded to do so by a law enforcement officer shall be guilty of Disorderly Assembly.

Dated this 21st day of October, 2013.

First reading: 10-15-2013
Second reading: 10-21-2013
Adopted: 10-21-2013
Published: 10-30-2013
Effective: 11-20-2013

Motion by Waterland, second by Johnston and carried with all members present voting yes to approve second reading of Ordinance 2013-18 – Title 15 – Streets, Sidewalks and Public Ways.

ORDINANCE 2013-18
AN ORDINANCE AMENDING TITLE 15– STREETS, SIDEWALKS AND PUBLIC WAYS

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 15– Chapter 15.03 – Snow and Ice Removal, Section 15.03.08 – Unlawful Parking on Designated Snow Removal Routes; Immediate Ticket and Tow authorized; - Section 15.03.09 – Director of Public Works Authority; Chapter 15.05 – Construction and Maintenance of Sidewalks – Section 15.05.07 Appeal Process is amended to read as follows:

15.03.08: PARKING PROHIBITED ON DESIGNATED SNOW REMOVAL ROUTES; IMMEDIATE TICKET AND TOW AUTHORIZED.

To facilitate prompt snow removal, it shall be unlawful for any vehicle to be parked on any designated Snow Removal Route within the City at any time within 24 hours of a forecast by the National Weather Service, as reported on the City of Sturgis website Weather Link, of an expected snowfall of at least 4 inches or more within the City of Sturgis. The designated Snow Removal Routes are shown on the official Map of Snow Removal Routes available at the Finance office and maintained by that office, and as also shown on the Sturgis City website, “www.sturgisgov.com”. All designated Snow Removal Routes shall also be marked with signage along the designated right of way to identify them. Any vehicle parked on a Snow Removal Route within that 24 hour period and before City employees have cleared the street curb to curb shall be subject to an immediate citation for a parking violation until the street has been cleared curb to curb. In addition, any vehicle tagged in violation of this Ordinance may be towed immediately after being tagged. The Penalty for such violation is as set forth in Section 15.01.03 of this Ordinance, and the owner, in addition such penalty, shall also be required to pay the cost of towing and removal of the vehicle to an authorized location.

This provision shall not limit the separate authority to issue a citation as provided for at 16.05.08.

15.03.09: DIRECTOR OF PUBLIC WORKS AUTHORITY

The Director of Public Works shall consult with the Chief of Police and City Manager and, consistent with the authority of SDCL 9-10-13, the City Manager is authorized and empowered to determine and designate a Snow Removal Routes upon any street or highway within the city, or any part thereof. The designation of any Snow Removal Route by the City Manager shall be conspicuously posted on each block along said route.

15.05.07: APPEAL PROCESS

Any person aggrieved by a decision of the Building Inspector made under this Chapter shall be entitled to have said decision reviewed by the City Manager. If after review the said person is unsatisfied, he or she may appeal the decision to the City Council. The process shall be as follows:

- A. An aggrieved person shall first file a written request for review with the City Manager setting forth the basis for which he or she believes the Building Inspector’s decision to be in error. The writing shall also include the person’s name and mailing address.
- B. Upon receipt of a written request for review, the City Manager shall review the challenged decision and mail a written response to the aggrieved person within twenty (20) days.

- C. If the aggrieved person is not satisfied with the decision of the City Manager following review, he or she may file a notice of appeal with the Finance Officer. There shall be a One Hundred Dollar (\$100.00) fee assessed for filing an appeal, which shall be paid to the Finance Office at the time of filing the written request for review.
- D. Upon receipt of a notice of appeal, the Finance Officer shall notify the City Council and a public hearing on the appeal shall be held at a regularly scheduled City Council within thirty (30) days after the date said appeal was filed . The Finance Office shall provide notice to the person specifying the time, date, and location of the hearing.
- E. The City Council may notify the aggrieved person of its decision following the hearing; however, the Council shall issue a written decision to the person within twenty (20) days of the hearing. The Council may affirm or reverse the decision of the City Manager.

Dated this 21st day of October, 2013.

First reading: 10-15-2013
Second reading: 10-21-2013
Adopted: 10-21-2013
Published: 10-30-2013
Effective: 11-20-2013

Motion by Waterland, second by Hersrud and carried with all members present voting yes to approve second reading of Ordinance 2013-19 – Title 25 – Lotteries.

ORDINANCE 2013-19 AN ORDINANCE AMENDING TITLE 25– LOTTERIES

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that **Title 25– Lotteries - Chapter 25.02 Regulations for the Conduct of Lotteries within the Corporate Boundaries - Section 25.02.07. – Local Benefit by Designation of Local Charity; Section 25.02.10 – Notice to Governing Body** is amended to read as follows:

25.02.07: LOCAL BENEFIT BY DESIGNATION OF LOCAL CHARITY

Any applicant under this Ordinance not demonstrating in the application submitted that its primary non-profit organizational purpose is to provide benefit to the Sturgis community, or which does not have its organization headquarters located within the City of Sturgis, shall demonstrate in its application it will meet the significant local benefit requirement of 25.02.02 herein by designating a qualifying local charity or non-profit organization located and operating within the greater Sturgis community with which applicant shall affiliate during the conduct of the bingo or lottery activity. Any such application asserting that significant local benefit will occur through such local affiliation shall show consent by the local affiliate by providing its signature on the application, or providing similar documentation of consent by the local affiliate, acceptable to the Finance Officer.

25.02.10: NOTICE TO GOVERNING BODY

The organizations authorized under Section 25.02.02 of this Title, before conducting a bingo game, lottery or raffle, shall give thirty (30) days written notice of the time and place thereof to the governing body of the municipality of the intention to conduct such bingo game or lottery. The notice shall be given by submitting an application, complete in form and content as determined by the City Finance Officer, at least 30 days prior to the proposed sale of tickets for the bingo or lottery. To be complete in form and content means the application must include written documentation confirming the applicant is a qualified non-profit 501(c)(3) organization as determined by the IRS, or include similar written documentation of comparable non-profit status from the Office of Secretary of State of South Dakota, in addition to other information required by this ordinance or the Finance Office. After the complete application and required fee has been submitted to the Finance Office, it shall be

- a) reviewed by the Finance Officer and,
- b) if it meets the requirements of this ordinance, it shall be approved by the Finance Officer under the authority of SDCL 22-25-25(6) or
- c) if an application is not approved by the Finance Officer, the applicant may, upon written request to the Finance Officer in the manner established by that office, obtain a review and reconsideration of the application at a regularly scheduled meeting of the City Council in the form of a resolution, whereby the City Council shall either approve or reverse the decision of the Finance Officer. If approved, the approval shall further state if the bingo or lottery is subject to the statutory limitation on compensation as stated at 25.02.05 herein.

25.02.11: APPLICATION INFORMATION AND STATE WIDE FILING REQUIREMENTS

The application submitted to the Finance Office shall also state the prize, the value of the prize, starting date, duration and termination date of the bingo game or lottery, and all additional relevant information required by the Finance Office form. However, any organization that conducts a lottery or sells tickets or shares for a lottery, bingo game, or raffle which are sold state-wide, which sale that has been approved by the office of the Secretary of State, shall also provide written notice to the City Council of such lottery by filing a complete, signed application with all required supporting documentation to the City Finance Office at least 30 days prior to commencement of ticket sales, pursuant to SDCL 22-25-25 (6).

Dated this 21st day of October, 2013.

First reading: 10-15-2013

Second reading: 10-21-2013

Adopted: 10-21-2013

Published: 10-30-2013

Effective: 11-20-2013

Motion by Bestgen, second by Anderson and carried with all members present voting yes to approve first reading of Ordinance 2013-20 – Title 18 – Zoning.

Motion by Bachand, second by Bestgen and carried with Anderson, Bachand, Bestgen and Waterland voting yes, Carstensen, Hersrud and Potts voting no and Johnston abstaining to approve giving the recommended \$15,000 of funds to the Charities and that the funds be split between the citizens of Sturgis and the Ranchers Relief Fund and the funds be diverted from the \$15,000 that we give to Sturgis Rally Charities to the Ranchers Relief Fund and the Citizens of Sturgis. This will provide us a stream of funding that will not affect the personnel or effect taxes

of the Citizens of Sturgis. This will meet the goals in being a good neighbor to both in town Citizens and our extended citizens.

Johnston introduced the following written resolution and moved its adoption:

RESOLUTION 2013-63

**RESOLUTION AUTHORIZING CITY MANAGER AND MAYOR
TO SIGN EMERGENCY SERVICES AND/OR EQUIPMENT USE AGREEMENTS**

WHEREAS, the blizzard that struck the City of Sturgis on October 3rd has place created a significant demand upon the city and its employees to respond to the emergency created by the store, debris cleanup and significant water flow which continued days after the blizzard had passed, and

WHEREAS, the City's Emergency Response Team as established in accordance to Title 29 has and is continuing to meet to respond to the significant damage throughout the community and to mitigate the loss of property and personal injury and as such has required the use of contracts to assist in the cleanup and mitigation efforts, and

WHEREAS, at the meeting on October 8th the Meade County Commission passed an Emergency Declaration to start the process of obtaining any available state and/or federal assistance to deal with the blizzard, debris and flooding emergency, and

WHEREAS, the City has adopted the City Manager form of government in place of the traditional Mayor and alderman form of city government, and

WHEREAS, the blizzard caused very substantial damage to the City through down power lines, fallen trees and limbs, and damaged and destroyed structures, and

WHEREAS, the immediate melting of the snow following the blizzard required the city to respond to flood advisories and a flood warning issued by the National Weather Service, and

WHEREAS, the City employees simply did not have the time nor equipment to accomplish, under those extreme weather conditions and in that short period of time, everything that needed to be done to prepare the City for the predicted flooding, and

WHEREAS, the City has on numerous occasions in the past authorized the City Manager to sign contracts on behalf of the city for necessary and required supplies and services, and

WHEREAS, the City recognizes it was necessary and very much in the best interest of public safety for the entire community to do all that was possible in very limited time to prevent the risk of serious flooding within the city of Sturgis, and

WHEREAS, keeping debris out of the creek beds and drainages locating within the City is the best means to get the full benefit of past flood improvements that have been located in the City, and

WHEREAS, the City Manager brought and may need to bring on several private contractors and/or volunteers to give emergency support to the efforts of City employees, and

WHEREAS, it was is necessary for the immediate and future preservation of the health and safety of the residents of the City to have the assistance of those private contractors to protect the health and safety of the community.

NOW THEREFORE, IT IS HEREBY RESOLVED that the Sturgis City Council hereby ratifies those contracts signed by the City Manager for such emergency assistance and Mayor Mark Carstensen is authorized to co-sign those contracts to demonstrate that the City Council has ratified and approved those agreements. Further, the City Manager and Mayor Mark Carstensen are authorized to sign similar contracts for emergency services and/or equipment and/or volunteers for the next sixty (60) days.

Dated this 21st day of October, 2013.

Published: 10-30-2013
Effective: 11-20-2013

Waterland seconded the motion for the adoption of the foregoing resolution with all members present voting yes and the resolution was declared passed and adopted.

Any other business:
None

Motion by Johnston, second by Waterland and carried with all members present voting yes to go into executive session for personnel and contracts at 9:30 pm.

Motion by Johnston, second by Bestgen and carried with all members present voting yes to return to regular session at 11:07 pm.

Motion by Johnston, second by Bestgen and carried with Anderson, Bachand, Bestgen, Carstensen, Hersrud, Johnston, Waterland voting yes, Potts abstaining, to approve paying schedule B and C of Phase II Water Project bill contingent that we receive a letter from Rural Development. Councilor Potts did not sit in on the discussion of paying these bills in Executive Session.

Motion by Waterland, second by Bestgen and carried with all members voting yes to approve buying a bucket truck from Black Hills Power for \$18,562.

Motion by Hersrud, second by Johnston and carried to approve a one-time supplemental compensation to designated exempt employees following a declared disaster affecting the Community.

Motion by Waterland, seconded by Bachand and carried with all members present voting yes to adjourn the meeting at 11:11 pm.

ATTEST: _____
Fay Bueno, Finance Officer

APPROVED _____
Mark Carstensen, Mayor

Published once at the total approximate cost of \$